

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 28.290

§ 28.282 Beer.

When beer has been laden on board the aircraft for use as supplies, the customs officer shall execute his certificate on both copies of the Form 1582-B (5130.6) or Form 1689 (5130.12), as the case may be, forward the original to the appropriate TTB officer designated on the form, and retain the copy for his files.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055)

[25 FR 5734, June 23, 1960, as amended by T.D. 7006, 34 FR 2251, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB-8, 69 FR 3834, Jan. 27, 2004]

RECEIPT IN MANUFACTURING BONDED WAREHOUSE

§ 28.285 Receipt in manufacturing bonded warehouse.

On receipt of the distilled spirits or wines, the related TTB Form 5100.11 (with any attachments), such inspection as is necessary will be made to establish that the shipment corresponds with its description on TTB Form 5100.11 (and any attachments) and customs Form 6001 will be prepared according to § 28.291. Any discrepancy disclosed by the inspection and gauge will be noted on each copy of TTB Form 5100.11. When the shipment corresponds with the description of TTB Form 5100.11 (and any attachments), the certificate of deposit will be executed on both copies of TTB Form 5100.11 and the original of TTB Form 5100.11 (and any attachments) and the original of his customs Form 6001 will be forwarded to the appropriate TTB officer. The remaining copies shall be kept on file.

(Sec. 201. Pub. L. 85-859, 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5214, 5362))

[T.D. ATF-198, 50 FR 8563, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3834, Jan. 27, 2004]

RECEIPT IN CUSTOMS BONDED WAREHOUSE

§ 28.286 Receipt in customs bonded warehouse.

On receipt of the distilled spirits or wine and the related TTB Form 5100.11 or 5110.30 as the case may be, the cus-

toms officer in charge of the customs bonded warehouse shall make such inspection as is necessary to establish to his satisfaction that the shipment corresponds with the description thereof on the appropriate form. The customs officer shall note on each copy of the Form 5100.11 or 5110.30, as the case may be, any deficiency in quantity or discrepancy between the merchandise inspected and that described on the form. Where the inspection discloses no loss, or where a loss is disclosed and there is no evidence to indicate fraud, the officer shall execute his certificate of deposit on both copies of the form, forward the original as required by the instructions on the form, and retain the remaining copy for his files.

(Sec. 3(a), Pub. L. 91-659, 84 Stat. 1965 (26 U.S.C. 5066); sec. 2, Pub. L. 96-601, 94 Stat. 3495 (26 U.S.C. 5362))

[T.D. ATF-88, 46 FR 39816, Aug. 5, 1981, as amended by T.D. TTB-8, 69 FR 3834, Jan. 27, 2004]

RECEIPT IN FOREIGN-TRADE ZONE

§ 28.290 Receipt in foreign trade zone.

On receipt at the zone, the shipment shall be inspected by the customs officer in charge of the zone who shall determine if the shipment agrees with the description thereof on the application, notice, or claim, TTB Form 5100.11, 5110.30, 1582-A (5120.24), 1582-B (5130.6), or 1689 (5130.12), as the case may be. If the customs officer regauges spirits or wine in the course of his inspection, he shall prepare customs Form 6001 according to § 28.291. The customs officer shall note on both copies of the TTB Form 5100.11, 5110.30, 1582-A (5120.24), 1582-B (5130.6), or 1689 (5130.12), as the case may be any deficiency in quantity or discrepancy between the merchandise inspected or gauged and that described in the form. Where the inspection or gauge discloses no loss, or where a loss is disclosed by such inspection or gauge and there is no evidence to indicate fraud, the officer shall execute his certificate on both copies of the form covering the deposit, and forward to the appropriate TTB officer:

(a) Original of the deposit from (with any attachments); and

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(b) Original of the officer's customs Form 6001, if any. The remaining copy of the deposit form (with any attachments), and the copy of any customs Form 6001, shall be retained by the customs officer for his files.

(48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1362, as amended, 1380, as amended (26 U.S.C. 5062, 5214, 5362))

[T.D. ATF-198, 50 FR 8563, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3834, Jan. 27, 2004]

CUSTOMS GAUGE

§ 28.291 Customs Form 6001.

When spirits or wines are gauged as required in § 28.264, § 28.285, or § 28.290, the customs officer shall prepare in duplicate customs Form 6001 to show:

- (a) Date;
- (b) Name of exporter;
- (c) Serial number and designation of the related transaction form;
- (d) Kind of liquor (show whether alcohol, whiskey, brandy, rum, gin, vodka, wine, etc.);
- (e) Name and registry number of producer;
- (f) If gauged under § 28.264, the location of the port;
- (g) If gauged under § 28.285, the location and number of the manufacturing bonded warehouse;
- (h) If gauged under § 28.290, the location and number of the foreign-trade zone;
- (i) Kind and serial numbers or lot identification numbers of containers; and
- (j) For each container:
 - (1) Proof of spirits, or percent of alcohol by volume in wine;
 - (2) Proof gallons, if spirits;
 - (3) Wine gallons, if wine; and
 - (4) Variation from the last gauge (proof, percent of alcohol by volume or wine gallons).

[T.D. ATF-198, 50 FR 8563, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3834, Jan. 27, 2004]

ALTERNATE PROCEDURES

§ 28.295 Exception for export of beer.

The provisions of this subpart do not apply in the case of beer when the exporter or claimant obtains proof of ex-

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portation other than certification by the military or customs certification of lading and use under § 28.43. Brewers and exporters shall prepare Forms 1582-B (5130.6) or 1689 (5130.12), as applicable, to cover exportation of beer, but customs or military certification on them is not required when other proof of exportation is used.

[LT.D.ATF-224, 51 FR 7700, Mar. 5, 1986, as amended by T.D. TTB-8, 69 FR 3834, Jan. 27, 2004]

Subpart O—Losses

DISTILLED SPIRITS

§ 28.301 Loss of distilled spirits in transit.

The tax on distilled spirits withdrawn without payment of tax under this part and which are lost during transportation from the bonded premises of the distilled spirits plant from which withdrawn to (a) the port of export, (b) the manufacturing bonded warehouse, (c) the vessel or aircraft, (d) the foreign-trade zone, or (e) the customs bonded warehouse, as the case may be, may be remitted if evidence satisfactory to the appropriate TTB officer establishes that such distilled spirits have not been unlawfully diverted, or lost by theft with connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier or the employees or agents of any of them: *Provided*, That such remission in the case of loss of distilled spirits by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed in respect of the tax for such loss.

(72 Stat. 1323, as amended, 84 Stat. 1965; 26 U.S.C. 5008, 5066)

[T.D. 7112, 36 FR 8583, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. TTB-8, 69 FR 3834, Jan. 27, 2004]

§ 28.302 Notice to exporter.

If, on examination of the TTB Form 5100.11 (and attached gauge reports, if any) received from the officer required to certify the same under the provisions of subpart N of this part, the appropriate TTB officer is of the opinion that the distilled spirits reported lost